



## ATTENTION

Probate cases on this calendar are currently under review by the probate examiners. Review of some probate cases may not be completed and therefore have not been posted.

If your probate case has not been posted please check back again later.

Thank you for your patience.

Atty Kruthers, Heather H., of County Counsel's Office (for Petitioner Public Guardian)

## (1) Third Account Current and Report of Successor Conservator and (2) Petition for Allowance of Compensation to Successor Conservator and Attorney

<b>Age: 73 years</b>		<b>PUBLIC GUARDIAN</b> , Successor Conservator of the Person and Estate, is Petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>
		<b>Account period: 7/9/2011 – 6/30/2013</b>	<b>Note:</b> If the <i>Petition</i> is granted, Court will set a status hearing as follows:
<b>Cont. from</b>		Accounting - <b>\$195,691.32</b>	<ul style="list-style-type: none"> <li><b>Friday, September 4, 2015</b> at 9:00 a.m. in Dept. 303 for filing of the fourth account.</li> </ul> <p>Pursuant Local Rule 7.5, if the document noted above is filed 10 days prior to the date listed, the hearing will be taken off calendar and no appearance will be required.</p>
<input type="checkbox"/>	<b>Aff.Sub.Wit.</b>	Beginning POH - <b>\$158,744.01</b>	
<input checked="" type="checkbox"/>	<b>Verified</b>	Ending POH - <b>\$ 98,219.76</b> (\$98,069.76 is cash)	
<input type="checkbox"/>	<b>Inventory</b>	Conservator - <b>\$3,249.96</b> (23.76 Deputy hours @ \$96/hr and 12.75 Staff hours @ \$76/hr; includes 12 hours for move of the Conservatee from CA Armenian Home to Orchard Park.)	
<input type="checkbox"/>	<b>PTC</b>		
<input type="checkbox"/>	<b>Not.Cred.</b>		
<input checked="" type="checkbox"/>	<b>Notice of Hrg</b>		
<input checked="" type="checkbox"/>	<b>Aff.Mail</b>	W/ Attorney - <b>\$1,250.00</b> (less than per Local Rule)	
<input type="checkbox"/>	<b>Aff.Pub.</b>		
<input type="checkbox"/>	<b>Sp.Ntc.</b>		
<input type="checkbox"/>	<b>Pers.Serv.</b>	Bond fee - <b>\$581.40 (OK)</b>	
<input type="checkbox"/>	<b>Conf. Screen</b>		
<input type="checkbox"/>	<b>Letters</b>	<b>Petitioner prays for an Order:</b>	
<input type="checkbox"/>	<b>Duties/Supp</b>	1. Approving, allowing and settling the Third Account;	
<input type="checkbox"/>	<b>Objections</b>	2. Authorizing the conservator and attorney fees and commissions; and	
<input type="checkbox"/>	<b>Video Receipt</b>	3. Authorizing payment of the bond fee.	
<input checked="" type="checkbox"/>	<b>CI Report</b>	<b>Court Investigator Charlotte Bien's Report</b>	
<input type="checkbox"/>	<b>9202</b>	<b>was filed 11/1/2012.</b>	
<input checked="" type="checkbox"/>	<b>Order</b>		
<input type="checkbox"/>	<b>Aff. Posting</b>		<b>Reviewed by:</b> LEG
<input type="checkbox"/>	<b>Status Rpt</b>		<b>Reviewed on:</b> 8/29/13
<input type="checkbox"/>	<b>UCCJEA</b>		<b>Updates:</b>
<input type="checkbox"/>	<b>Citation</b>		<b>Recommendation:</b>
<input type="checkbox"/>	<b>FTB Notice</b>		<b>File 1 – Vogt</b>

**(1) First and Final Report of Executrix and Petition for Its Settlement, and (2) for Final Distribution Under Decedent's Will of Waiver of Accounting [Prob. C. 11640]**

<b>DOD: 11/17/2011</b>		<b>JUDY TOLER</b> , Executor, is petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>  1. Need property on hand schedule clearly stating the property on hand to be distributed. California Rules of Court, Rule 7.651 and Local Rule 7.12.1.  2. Petition does not contain a statement regarding if notice to the Franchise Tax Board was performed, as required by Probate Code 9202(c)(1).  3. Order does not comply with Local Rule 7.6.1A. Orders shall set forth all matters ruled on by the court, the relief granted, and the names of person, descriptions of property and/or amounts of money affected with the same particularity required of judgments in general civil matters. Monetary distributions must be stated in dollars, and not as percentages of the estate.
		Accounting is waived.	
		I & A - \$253,275.69	
		POH - ???	
<b>Cont. from 070813</b>			
<input type="checkbox"/>	<b>Aff.Sub.Wit.</b>		
<input type="checkbox"/>	<b>Verified</b>	X	
<input checked="" type="checkbox"/>	<b>Inventory</b>		
<input checked="" type="checkbox"/>	<b>PTC</b>		
<input checked="" type="checkbox"/>	<b>Not.Cred.</b>		
<input checked="" type="checkbox"/>	<b>Notice of Hrg</b>		
<input checked="" type="checkbox"/>	<b>Aff.Mail</b>		
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<input type="checkbox"/>	<b>Sp.Ntc.</b>		
<input type="checkbox"/>	<b>Pers.Serv.</b>		
<input type="checkbox"/>	<b>Conf. Screen</b>		
<input checked="" type="checkbox"/>	<b>Letters</b>		
<input type="checkbox"/>	<b>Duties/Supp</b>		
<input type="checkbox"/>	<b>Objections</b>		
<input type="checkbox"/>	<b>Video Receipt</b>		
<input type="checkbox"/>	<b>CI Report</b>		
<input checked="" type="checkbox"/>	<b>9202</b>		
<input type="checkbox"/>	<b>Order</b>	X	
<input type="checkbox"/>	<b>Aff. Posting</b>		
<input type="checkbox"/>	<b>Status Rpt</b>		
<input type="checkbox"/>	<b>UCCJEA</b>		
<input type="checkbox"/>	<b>Citation</b>		
<input type="checkbox"/>	<b>FTB Notice</b>	X	
			<b>Reviewed by: KT</b> <b>Reviewed on: 8/29/2013</b> <b>Updates:</b> <b>Recommendation:</b> <b>File 3 – Barnes</b>

**Petition to Determine Succession to Real Property (Prob. C. 13151)**

<b>DOD: 2/24/12</b>		<b>MARY JO CARDOZA</b> , daughter, is petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>
		40 days since DOD.	
		No other proceedings.	<b><u>CONTINUED FROM 8/15/2013.</u></b> As of 8/29/2013 no additional documents have been filed.
<b>Cont. from 022113, 022813, 032813, 060613, 071113, 081513</b>		I & A - <b>\$80,000.00</b>	
		Will dated 1/14/12 devises decedent's ½ interest in real property to Mary Jo Cardoza.	
<input type="checkbox"/>	<b>Aff.Sub.Wit.</b>	<b>Petitioner requests</b> Court determination that Decedent's ½ interest in real property located in Selma California passes to her pursuant to Decedent's Will.	
<input checked="" type="checkbox"/>	<b>Verified</b>	<b>Objections to Petition to Determine Succession filed by Michele Cardoza on 3/22/13.</b> Objector states the real property identified in the petition (the Property) was and is subject to an agreement (the Agreement) between decedent, Emily Scharer and Mary Jo Cardoza, Joseph Cardoza, William Cardoza, Michael Cardoza and Objector.	
<input checked="" type="checkbox"/>	<b>Inventory</b>	To understand the terms of the Agreement, reference is made to case no. 219958-6, the Estate of Mary Silva. Mary Silva died in 1977 and was the mother of Emily Scharer, and grandmother of Mary Jo Cardoza, Joseph Cardoza, William Cardoza, Michael Cardoza and Objector.	
<input checked="" type="checkbox"/>	<b>PTC</b>	The Last Will and Testament of Mary Silva devised her entire estate to her six grandchildren and made no provisions for her daughter, Emily Scharer.	
<input type="checkbox"/>	<b>Not.Cred.</b>	Included in her estate was an undivided ½ interest in the Property. During the course of the administration of the estate of Mary Silva, the Agreement was made between Emily Scharer, who held the other ½ interest in the Property, and the six grandchildren of Mary Silva, who were to receive Mary Silva's ½ interest in the Property.	
<input checked="" type="checkbox"/>	<b>Notice of Hrg</b>	<b>Please see additional page</b>	
<input checked="" type="checkbox"/>	<b>Aff.Mail</b>		
<input type="checkbox"/>	<b>Aff.Pub.</b>		
<input type="checkbox"/>	<b>Sp.Ntc.</b>		
<input type="checkbox"/>	<b>Pers.Serv.</b>		
<input type="checkbox"/>	<b>Conf. Screen</b>		
<input type="checkbox"/>	<b>Letters</b>		
<input type="checkbox"/>	<b>Duties/Supp</b>		
<input type="checkbox"/>	<b>Objections</b>		
<input type="checkbox"/>	<b>Video Receipt</b>		
<input type="checkbox"/>	<b>CI Report</b>		
<input type="checkbox"/>	<b>9202</b>		
<input checked="" type="checkbox"/>	<b>Order</b>		
<input type="checkbox"/>	<b>Aff. Posting</b>		
<input type="checkbox"/>	<b>Status Rpt</b>		
<input type="checkbox"/>	<b>UCCJEA</b>		
<input type="checkbox"/>	<b>Citation</b>		
<input type="checkbox"/>	<b>FTB Notice</b>		
			<b>Reviewed by: KT</b>
			<b>Reviewed on: 08/29/13</b>
			<b>Updates:</b>
			<b>Recommendation:</b>
			<b>File 4 - Scharer</b>

The material terms of the Agreement were that Emily Sharer would receive all income/profit from the Property during her life and, in exchange for the grandchildren foregoing any interest in the income/profit during her life, she would, upon her death, give the exempted portion of the real property contained in the legal description of the Property to her children equally. Thus, upon the death of Emily Scharer, the farmland and the portion surrounding and containing the residence would be merged and the ownership of the parcels would be held equally by the six grandchildren of Mary Silva.

The Agreement was prepared and executed by the law offices of Shepard, Shepard and Janian, and resulted in a Grant Deed being recorded with the County Recorder on 6/13/1978, whereby Emily Scharer was given a life estate in the Property.

As also part of the Agreement, final distribution of the estate of Mary Silva was entered on 10/23/1978. The decree distributes the Property to the six grandchildren without reference to the Agreement and the previously recorded Grant Deed.

Objector states she contacted the law offices of Shepard, Shepard and Janian about obtaining a copy of the Agreement. Objector was told that Mary Jo Cardoza obtained Emily Scharer's file and the office did not keep a copy.

Of the six grandchildren of Mary Silva who might attest to the existence of the Agreement, Objector states she is the only one able and willing to step forward; Margaret died in 2004, William died in 2005, Joseph has dementia, Michael, for whatever reason, has aligned himself with Mary Jo, and the interests of Mary Jo.

Objector states that while she is unable to produce the written Agreement, the written documents available provide evidence that the parties to the Agreement acted and performed according to the terms of the Agreement, save for Emily Scharer completing her performance as required.

**Minute order dated 3/28/2013 states** the Court directs counsel to submit a joint document showing the chain of title and what it represents.

**Minute Order dated 07/11/13 states** Mr. Teixeira informs the Court that he is waiting to receive the chain of title documents. Mr. Teixeira requests a continuance. Matter continued to 08/15/13. Mr. Teixeira is directed to have a title report by the next hearing.

**Notice of Motion and Motion for Distribution of Funds Received from CalSTRS by  
Guardian of the Person to be Paid to the Parent, Tony Navarro, for the Minor's  
Benefit**

<b>Age: 7</b>		<b>TONY NAVARRO</b> , Father, is Petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>
		<b>JENNIFER SANCHEZ</b> , Maternal Aunt, was appointed Guardian of the Estate on 3-6-13 without bond, funds blocked.	<p><b>Note:</b> Although Mr. Navarro filed this petition and is therefore the "Petitioner" in the matter before this Probate Court at this time, it appears that in his documents he refers to himself as the "Respondent" and to Ms. Sanchez as "Petitioner," as is the practice in Family Law litigation. Examiner notes this observation simply to avoid confusion in reading the Examiner Notes, which refer to the party bringing the petition as the "Petitioner."</p> <ol style="list-style-type: none"> <li>This petition is titled as a "Motion" and therefore was charged a fee of \$60.00 for filing. However, Examiner notes that this actually appears to be a petition for an order authorizing, instructing, or directing a fiduciary, which would require the full filing fee of \$435 pursuant to GC §70658(a) (Fee Schedule Line 144). Therefore, need balance of \$375 from Petitioner.</li> <li>Notice was not properly served. Revised notice may be required due to the following issues: <ul style="list-style-type: none"> <li>- Notice of Hearing to Ms. Sanchez, Guardian of the Estate of the minor, was served "C/O" attorney Joanne Sanoian. Cal. Rules of Court 7.51 requires direct service, and Probate Code §1214 allows service to the attorney <u>in addition to service</u> on the party, not instead of or "C/O."</li> <li>- CRC 7.51 also requires direct service on the minor, not "C/O" the parent.</li> <li>- Notice to Paternal Grandparents was served together, rather than individually.</li> </ul> </li> </ol>
		<b>Petitioner states</b> the mother died in December 2012. At the time of her death, there was litigation pending between the parents re child support. Said litigation has spanned a period of several years culminating in an order of primary custody to Petitioner at the time of the mother's death. Petitioner requests the Court take Judicial Notice of the underlying litigation in 08CEFL00595. A joinder against Ms. Sanchez has recently been issued. That matter is still pending.	
<b>Aff.Sub.Wit.</b>		Petitioner states the CalSTRS payments for the child were ordered on an ex parte basis on 5-8-13 to be received by the Guardian of the Estate and deposited to blocked account.	
✓ <b>Verified</b>		Petitioner states the funds are for the benefit of the child and should be utilized for the care of the child. At the 3-26-13 hearing wherein Ms. Sanchez was originally appointed as Guardian of the Estate without bond, Counsel for Petitioner objected as to the ongoing monthly benefit payments, specifically CalSTRS benefits, being paid to her rather than to the father. At that time, she had not contacted CalSTRS and was not certain such benefit would be subject to the guardianship estate.	
<b>Inventory</b>		Now, precisely as predicted at that hearing, Petitioner is forced to bring the instant motion to obtain this monthly payment to pay for expenses for the child. Petitioner is the sole surviving parent, is a self-employed contractor and has an average monthly income less than the equivalent of full time minimum wage.	
<b>PTC</b>			
<b>Not.Cred.</b>			
✓ <b>Notice of Hrg</b>			
✓ <b>Aff.Mail</b>	W		
<b>Aff.Pub.</b>			
<b>Sp.Ntc.</b>			
<b>Pers.Serv.</b>			
<b>Conf. Screen</b>			
<b>Letters</b>			
<b>Duties/Supp</b>			
<b>Objections</b>			
<b>Video Receipt</b>			
<b>CI Report</b>			
<b>9202</b>			
✓ <b>Order</b>			
<b>Aff. Posting</b>			
<b>Status Rpt</b>			
<b>UCCJEA</b>			
<b>Citation</b>			
<b>FTB Notice</b>			
<b>SEE ADDITIONAL PAGES</b>			<p style="text-align: center;"><b>SEE ADDITIONAL PAGES</b></p>

**SEE ADDITIONAL PAGES**

Reviewed by: skc

Reviewed on: 8-29-13

Updates:

Recommendation:

File 5 – Navarro

## Page 2

**Petitioner states** that while he is married and his current wife does earn sufficient income to support the household, the ongoing support and care of the minor child is NOT the legal responsibility of his spouse.

Petitioner states he is among the persons authorized by law to receive the benefits on behalf of the child. California Education Code §23855 and 23856 cited.

Petitioner states that if no guardianship of the estate had been established, he would be entitled to receive this benefit. However, the code does not designate as to who would have priority between a guardian of the estate and a parent having custody. Petitioner contends that the present situation makes absolutely no logical sense, nor would it be just or equitable to allow the guardian of the estate, who was appointed to oversee assets such as the decedent's vehicle, bank accounts, and various items of furnishing or other personal property, to have exclusive control over a monthly survivor benefit for the benefit of the child.

Petitioner states it seems quite clear that the monthly allowance from CalSTRS was intended to be an ongoing payment for the surviving children's health, well-being, and support. If such funds were intended to be accumulated into a blocked account as an investment for the child, then it would be much more logical that such sum would be awarded as a lump sum. As such, funds intended to provide for the child's ongoing needs should be paid to Petitioner.

**Petitioner prays that the Court issue an order that the Guardian of the Estate pay forthwith to Petitioner fbo the minor child all sums received from the California State Teachers' Retirement System (CalSTRS) after such sums have been placed into a blocked account pursuant to this Court's order of 5-8-13.**

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**Jennifer Sanchez**, Guardian of the Estate, filed a Reply on 8-27-13. Ms. Sanchez states she is also the trustee of a living trust executed by the mother. The parents had a contentious relationship until the mother's death, and at her death, Petitioner sought to join Ms. Sanchez, as trustee of the trust, into the existing family law matter. During the family law proceeding, he sought modification of a child support order for \$241/month.

Ms. Sanchez states that immediately after the mother's death, Petitioner sought to obtain her trust assets for the minor's support through a motion for joinder. Although successful in joining her, as trustee, for a very limited purpose (to obtain reimbursement for one-half unpaid health and child care benefits from date of death), no ongoing support order was made against the mother which would now authorize a claim against the trust, nor the assets of this guardianship proceeding. On 7-30-13, Petitioner filed a Notice of Appeal of the court's order in the family law proceedings. That matter is currently pending.

The Reply states that the CA Education Code referenced was the basis for this court's order authorizing the guardian to receive the CalSTRS benefits as guardianship assets. Petitioner's moving papers fail to disclose the fact that he is receiving Social Security Survivor benefits for the support of the minor. Ms. Sanchez believes those are approx. \$300/month, which is more than the amount that he previously paid the mother in child support.

**SEE ADDITIONAL PAGES**

## Page 3

Re a guardian's use of guardianship assets to support a child: It is the parents, not the guardian, who has a duty to provide financial support for the minor. Authority cited. Because a parent has the legal obligation to support his or her minor child, the minor's assets are to be preserved until he or she attains majority, if the minor has a parent available to provide support. As a matter of almost universal court policy, the guardian may not use guardianship assets without prior court approval, and **unless the minor's parents are deceased or unavailable, approval is given only in extraordinary circumstances.** (Probate Code §2422; Family Code §3902; CEB 10.20, 10:24).

Ms. Sanchez states Petitioner is responsible for support of his child. Petitioner seeks a turnover of all CalSTRS benefits on a monthly basis for his use, without establishing that guardianship assets should be available to him, or the legal grounds under which he is somehow entitled to these assets. He has attempted for more than four years to obtain assets of the decedent. He was successful in reducing his child support obligation to her shortly before she died. Through an appeal on the family law proceeding, an objection to the establishment of the guardianship proceeding, and now this motion to gain access to the assets, he continues the vindictive and malicious attack on the decedent. His recent actions explain exactly why the mother carefully executed her estate plan prior to her death, to place a trusted family member in charge of assets which will ultimately be transferred to the minor in adulthood.

Petitioner fails to show facts sufficient to compel Ms. Sanchez to furnish support under Probate Code §2404. Ms. Sanchez is informed and believes that Petitioner's household income exceeds \$100,000.00 and that he has an ownership interest in at least one home and one rental property. At no time has he spoken to Ms. Sanchez re specific needs for which additional funds are needed. He has not spoken to her at all.

Guardianship assets currently total approx. \$53,157.00. These funds should be preserved for the minor. Should Petitioner bring a petition under §2404 and establish need for support, maintenance, education, or special needs that cannot otherwise be met by the father, Ms. Sanchez shall readily comply with any court order regarding same. She shall also request appointment of a Guardian Ad Litem for the minor to investigate the facts alleged in such a petition.

Attached to the Reply is a copy of the 4-30-13 Findings and Order in 08CEFL00595

**Ms. Sanchez requests the motion be DENIED.**

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**NEEDS/PROBLEMS/COMMENTS (Cont'd):**

3. Petitioner requests the Court take Judicial Notice of the underlying litigation in 08CEFL00595; however, Cal. Rules of Court 3.1306(c) requires that the party specify in writing the part of the file sought to be judicially noticed, and make arrangements to have the file available at the hearing. Continuance for such information may be required if Petitioner is requesting Judicial Notice of parts of the family law court file.



		<p><b>On 5-21-13</b>, pursuant to Amended Petition filed by <b>David and Arlene Liles</b>, Guardians Ad Litem for Raven Nicole Bailey, minor beneficiary, the Court appointed <b>H.F. RICK LEAS</b>, a licensed professional fiduciary, as Successor Trustee of the Amended Carol Baily Living Trust with bond of \$500,000.00 on 5-21-13. Bond was filed on 5-31-13.</p> <p>Order 5-21-13 also requires <b>ALLISON ST. LOUIS</b>, as successor or representative of the prior trustee <b>DAVID J. ST. LOUIS</b>, to file an accounting with the Court, which accounting shall be prepared by Dritsas, Groom and McCormick, LLP, within four weeks of the order.</p> <p>The Court set this status hearing for the filing of the accounting.</p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><u>Continued from 6-14-13, 8-16-13</u></p> <p><b>Note: There were no appearances on 6-14-13 or 8-16-13. Copies of the minute orders were mailed to Attorney Winter and Allison St. Louis.</b></p>
<b>Cont. from 061413, 081613</b>			
<b>Aff.Sub.Wit.</b>			
<b>Verified</b>			
<b>Inventory</b>			
<b>PTC</b>			
<b>Not.Cred.</b>			
<b>Notice of Hrg</b>			
<b>Aff.Mail</b>			
<b>Aff.Pub.</b>			
<b>Sp.Ntc.</b>			
<b>Pers.Serv.</b>			
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<b>9202</b>			
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<b>Citation</b>			
<b>FTB Notice</b>			
		<b>Reviewed by:</b> skc	
		<b>Reviewed on:</b> 8-29-13	
		<b>Updates:</b>	
		<b>Recommendation:</b>	
		<b>File 11 - Bailey</b>	